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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INLAND MORTGAGE CAPITAL CORPORATION v. SYNTERRA 3020 MARKET, L.P.; SYNTERRA 3020 MARKET, L.L.C. SYNTERRA PARTNERS, L.P.; WILLIAM L. WILSON; and BARBARA WILSON	NO. 09 3504 CIVIL ACTION

FILED
JUL 31 2009
By ______ Dep. Clerk

CIVIL COMPLAINT

Plaintiff Inland Mortgage Capital Corporation ("Inland"), by and through its undersigned counsel, hereby state as follows:

PARTIES

1. Inland is a commercial mortgage lender organized as a corporation under the laws of the State of Maryland with its principal place of business in Oak Brook, Illinois.

2. Synterra 3020 Market, L.P. (the "Borrower") is a Pennsylvania limited partnership whose partners are citizens of the Commonwealth of Pennsylvania and is the leasehold owner of real property and facilities located at 3020 Market Street, Philadelphia, PA (the "Property").

3. Synterra 3020 Market, L.L.C. ("Synterra LLC") is a Pennsylvania limited liability company whose members are citizens of the Commonwealth of Pennsylvania and who is the general partner of the Borrower and a guarantor of the Borrower's obligations on the Property.

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4. Synterra Partners, L.P. ("Synterra L.P.") is a Pennsylvania limited partnership whose partners are citizens of the Commonwealth of Pennsylvania and who is a guarantor for the Borrower's obligation on the Property.

5. William L. Wilson ("William Wilson") is a Pennsylvania citizen and is a guarantor for the Borrower's obligation on the Property.

6. Barbara Wilson ("Barbara Wilson" and collectively with Synterra LLC, Synterra L.P., William Wilson, their respective heirs personal representatives and permitted successors and assigns referred to as "Guarantors") is a Pennsylvania citizen and is a guarantor for the Borrower's obligation on the Property.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 based on the diversity of citizenship of the parties. The amount of controversy exceeds $75,000 exclusive of interest and costs.

8. Venue exists in this judicial district because the Property is located in Philadelphia, PA, and the Borrower, and the Guarantors consented to jurisdiction to any federal court within Philadelphia County.

GENERAL ALLEGATIONS

9. On or about May 14, 2007, the Borrower, for valuable consideration, executed, made, delivered and accepted the terms and conditions of a certain Promissory Note made payable to Inland in the principal sum of twenty-eight million eight hundred fifty thousand dollars ($28,850,000) (the "Promissory Note"). (A true and correct copy of the Promissory Note is attached hereto as Exhibit A.) The terms and provisions of the Promissory Note are incorporated herein by reference as if they were set forth at length herein.

10. As security for all sums advanced on or about May 8, 2007, the Borrower executed and delivered to Inland a certain Open-End Leasehold Mortgage, Security Agreement, Assignment of Rents and Financing Statement (the "Mortgage"), *inter alia*, granting and conveying to Inland a mortgage interest in the Property and a security interest in all of the collateral set forth in the Promissory Note and the Mortgage. (A true and correct copy of the Mortgage is attached hereto as Exhibit B.) The terms and provisions of the Mortgage are incorporated herein by reference as if they were set forth at length herein.

11. The Mortgage was recorded on June 8, 2007, in the Office of the Recorder of Deeds of Philadelphia County, Pennsylvania, as Instrument No. 51898726.

12. Pursuant to the Promissory Note and the Mortgage, Inland and Borrower also executed a Construction Loan Agreement (the "Construction Agreement" and together with the Promissory Note, the Mortgage together with all agreements, documents and instruments executed in connection therewith or in furtherance thereof are collectively referred to herein as the "Loan Documents") that governed the use of the funds Inland loaned to the Borrower. (A true and correct copy of the Construction Agreement is attached hereto as Exhibit C.) The terms and provisions of the Construction Agreement are incorporated herein by reference as if they were set forth at length herein.

13. As additional security for the loan, on or about May 8, 2007, the Guarantors executed and delivered to Inland a certain Loan Guaranty Agreement (the "Guaranty"), pursuant to which, *inter alia*, each Guarantor "joint and severally, irrevocably and unconditionally, fully guarantee to Lender the full and prompt payment when due of all principal, interest, default interest, late charges, fees, premiums and all other sums from time to time outstanding under the Loan Documents…" (A true and correct copy of the Guaranty is attached hereto as Exhibit D.)

The terms and provisions of the Guaranty are incorporated herein by reference as if they were set forth at length herein.

14. The Guaranty provided that the Guarantors guaranteed payment of the Borrower's indebtedness arising under the Loan Documents to Inland in the amount of nine million five hundred twenty thousand five hundred dollars ($9,520,500.00). Ex. D, ¶ 1.(A).

15. The Guarantors are further jointly and severally liable to Inland for payment "of any actual losses, costs, expenses, liabilities, obligations, and/or damages incurred by [Inland] (including, but not limited to costs of collection and attorneys' fess and disbursements) as a result of the occurrence of any one or more of the following: . . . (viii) Borrower's failure to pay interest due on IMCC obligations when it is due . . ." Ex. D, ¶ 1.(B).

16. On January 30, 2009, Inland, the Borrower and the Guarantors executed a Loan Extension Agreement (the "Extension") which extended the loan obligations to June 30, 2009. (A true and correct copy of the Extension is attached hereto as Exhibit E.) The terms and provisions of the Extension are incorporated herein by reference as if they were set forth at length herein.

17. Under the Extension, the Borrower acknowledged that it was indebted to Inland for a total of $25,418,119.72. Ex. E, § 2, ¶ (a).

18. Under the Mortgage, the Borrower had to "duly and promptly pay each and every installment of the principal of and interest on the Note, and all other sums hereby secured, as the same become due..." Ex. E, ¶ 1.

19. The Mortgage provided that Inland had the right from time to time to enforce any legal or equitable remedy against the Borrower and to sue for any sums "whether interest,

damages for failure to pay principal or any installment thereof, taxes, installments of principal, or any other sums required to be paid under the terms of this Mortgage." Ex. B, ¶ 18.

20. Further, Inland has the right "to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due." *Id.*, *see also* Ex. B, ¶ 22.

21. Included in any suit to foreclose the lien, there "shall be allowed and included as additional indebtedness in the decree for sale, to the extent permitted by law, all expenditures and expenses which may be paid or incurred by or on behalf of the [Borrower] for attorneys' fees and disbursements…" *Id.*.

22. As of July 21, 2009, the maturity date, there remained **$26,336,194.83** due and owing on the loan.

Principal		$25,260,782.26
Interest (@ 6% Pay Rate)		389,051.17
Interest (@ 3.32% Accrual Rate)		608,038.76
Interest (@ Default Rate)		122,095.47
	Subtotal:	**$26,379,967.66**
	Less: escrows on deposit	43,772.83
	TOTAL DUE:	**$26,336,194.83***

plus interest accruing at the Default Rate set forth in the Loan Documents, which equals $5,814.07 per diem.

23. On July 27, 2009, Inland sent the Borrower a default letter and demanded full payment of the loan. (A true and correct copy of the Borrower default letter is attached hereto as Exhibit F.)

24. The Borrower has not repaid the loan.

25. On July 27, 2009, Inland sent the Guarantors default letters stating that the Borrower had failed to repay the loan on the maturity date. Inland demanded that the Guarantors repay the full amount allowed under the Guaranty, $9,520,500.00, of the amount due and owing

under the Loan Documents. Inland further reserved its right to demand payment of additional losses, costs, expenses, and/or damages pursuant to Paragraph 1(B) of the Guaranty. (A true and correct copy of the Guarantor default letter is attached hereto as Exhibit G.)

26. The Guarantors have failed to satisfy their obligations under the Guaranty.

COUNT I - FORECLOSURE OF MORTGAGE
(the "Borrower")

27. Plaintiff incorporates by reference the averments in paragraphs 26 above.

28. The Borrowers have failed to repay the amount left due and owing by the maturity date.

29. Failure to repay the loan by the maturity date is a default under the Loan Documents.

30. Upon a default under the Loan Documents, Inland may seek foreclosure of the mortgage.

WHEREFORE, Plaintiff Inland Mortgage Capital Corporation respectfully requests judgment in its favor and against Defendant Synterra 3020 Market.

COUNT II - BREACH OF CONTRACT
(the "Borrower")

31. Plaintiff incorporates by reference the averments in paragraphs 30 above.

32. The Borrowers have failed to repay the amount left due and owing by the maturity date.

33. Failure to repay the loan by the maturity date is a default under the Loan Documents.

34. Therefore, the Borrowers breached their obligations under the Loan Documents and owe Inland damages.

WHEREFORE, Plaintiff Inland Mortgage Capital Corporation respectfully requests judgment in its favor and against Defendants Synterra 3020 Market.

COUNT III - BREACH OF CONTRACT
(the "Guarantors")

35. Plaintiff incorporates by reference the averments in paragraphs 34 above.

36. The Borrowers have failed to repay the amount left due and owing by the maturity date.

37. Failure to repay the loan by the maturity date is a default under the Loan Documents.

38. Upon an event of default, the Guarantors agreed to repay the amounts due and owing under the Loan Documents.

39. Inland sent the Guarantors notice of the Borrowers default and demanded full payment under the Guaranty.

40. The Guarantors have failed to fulfill their obligations under the Loan Documents.

41. Therefore, the Guarantors have breached the Guaranty.

WHEREFORE, Plaintiff Inland Mortgage Capital Corporation respectfully requests judgment in its favor and against the Guarantors.

COUNT IV - APPOINTMENT OF A RECEIVER
(the "Borrower")

42. Plaintiff incorporates by reference the averments in paragraphs 41 above.

43. The Mortgage provides that "upon or at any time after the filing of a complaint to foreclose this Mortgage, [Inland] shall have the right to be appointed by the court. . . to have a receiver appointed…" Ex. B, ¶ 7.

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44. The Mortgage further provides that receiver "shall have power to collect the rents, revenues, income, receipts, issues and profits of the Premises during the pendency of such foreclosure suit through the date of a confirmed sale of the Premises, and shall have all other powers which are granted by law or which may be necessary or usual in such cases for the protection, possession control, management and operation of the Premises." *Id.*

45. The receiver is also permitted to pay the costs incurred in the management and operation of the Premises, prior and subordinate liens, if any, taxes, assessments, and insurance and may pay all or any part of the indebtedness secured hereby or by any deficiency decree. *Id.*

46. Synterra 3020 Market has breached the Mortgage by, among other things, failing to make timely payments to Inland and is, therefore, in default of the Mortgage.

47. The Mortgage is a valid, binding and enforceable agreement between Inland and Synterra 3020 Market.

48. Pursuant to Fed. R. Civ. P. 66 and Pa. R. Civ. P. 1533, Inland seeks the immediate appointment of a receiver to protect Inland's rights, titles, and interest in and to the Properties. Inland requests that the Court appoint a Receiver for the Property.

WHEREFORE, Inland Capital Mortgage Corporation of Connecticut respectfully requests judgment in its favor and against Synterra 3020 Market on this Count as follows:

a. For an Order appointing a Receiver to (a) operate and manage the business of Synterra 3020 Market at the Property, (ii) preserve and protect the Property; (iii) collect the rents, issues, profits, royalties, income and other benefits derived from the Property; and (iv) subject to further Order of the Court, lease the Property.

b. For any such other and further relief as the Court deems just and proper under the circumstances.

GREENBERG TRAURIG, LLP

BY: ______________________________

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